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IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA

SOUTHERN DIVISION

2006 APR -6 A 9:40

CLERK OF DISTRICT COURT  
U.S. DISTRICT COURT  
MIDDLE DISTRICT OF ALABAMA  
MOBILE, ALABAMA

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C. W. JACKSON, #152084

Plaintiff,

v.

1:06-CV-174-WKW

Zack E., is the Administrator at  
the Coffee County Jail, he being  
sued in his individual and official  
capacity. Henry S. Cockron, is a  
doctor who works for the Coffee  
County Jail, he is being sued in  
his individual and official capacity.,  
et. al.,

Defendants.

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REPLY / OBJECTION TO THE RECOMMENDATION OF THE MAGISTRATE JUDGE

I. PLAINTIFF'S PRIMARY OBJECTION TO

THIS COURT'S RECOMMENDATION TO

DISMISS COMPLAINT WITH PREJUDICE

PRIOR TO SERVICE, Due to an "actual injury sustained under the deliberate indifference standard."

Rule 15 (a), Federal Rules of Civil Procedure, states in pertinent part: (a)

"Otherwise a party may amend the party's pleading only by leave of court or by written consent of the adverse party; and leave shall be free given when justice requires..."

Rule 15 (c) (3), Federal Rules of Civil Procedure, states in pertinent part:

"(c) Relation Back of Amendments. An Amendment of pleading relates back to the original pleading when (3) the Amendment changes the party or the naming of the party against whom a claim is asserted..."

Plaintiff asserts the above Federal Rules leans in his favor, although he incorrectly stated the Coffee County Jail as a defendant in his initial complaint therefore, subjecting his complaint to dismissal because a County Jail is not a legal entity subject to suit, plaintiff avers Rule 15 (a); and Rule 15 (c) (3), Federal Rules of Civil Procedure, affords him the opportunity to correct such said deficiency by amendment if the Court determines that the complaint is deficient but capable of being corrected, before dismissal, prior to service upon the defendant cf. University of Hawaii v. Coutuano, 183 F.3d 1096 (1999); and Peterson v. Sealed Air Corp., 902 F.2d 1232 (7th Cir 1990).

Plaintiff respectfully, ask, this Honorable Court not to dismiss his Complaint, but instead allow him to "amend Complaint" to correct aforementioned deficiency pursuant to Rule 15 (a) (c) (3), Federal Rules of Civil Procedure, so another dispositive determination can be made by this Honorable Court based upon the correction in the interest of judicial comity. Done this 2 day of April, of 2006.

Respectfully Submitted,  
C.W. JACKSON

DECLARATION UNDER THE PENALTY OF PERJURY

C. W. Jackson, being competent to make this declaration and having personal knowledge of the afore mentioned matters stated therein, pursuant to 28 U.S.C. subsection 1746, I declare under the penalty of perjury that the foregoing is true and correct, Executed on 4-2-06, of 2006.

C.W. JACKSON

C. W. Jackson # 158384

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that I have served this cause of action upon the United States District Court for the Middle District of Alabama, and Magistrate Judge Vanzetta Penn McPherson, by placing a copy of the foregoing in the United States Mail, properly addressed, with proper prepaid postage on this 2 day of April, of 2006.

C.W. JACKSON